



FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Mine Safety and Health Review Commission (FMSHRC) is revising the notice of Privacy Act system of records FMSHRC-06.

DATES: This revised system of records is effective upon publication. Comments regarding Routine Uses must be received by FMSHRC on or before **[Insert date 30 days after publication in the FEDERAL REGISTER]**. The Routine Uses are effective at the close of the comment period unless comments necessitate otherwise.

ADDRESSES:

You may submit comments by any of the following methods:

- *Email:* PrivacyAct@fmshrc.gov . Include “PRIVACY ACT SYSTEM OF RECORDS” in the subject line of the message.
- *Fax:* (202) 434-9916.
- *Mail:* Privacy Act Coordinator, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710.
- *Hand Delivery/Courier:* same as mailing address.

Instructions: All submissions must include your name, return address, and email address, if applicable. Please clearly label submissions as “PRIVACY ACT SYSTEM OF RECORDS.”

FOR FURTHER INFORMATION CONTACT: Leslie C. Bayless, Chief Operating Officer, Office of the Chair, via telephone at (202) 434-9941 or via email at lbayless@fmshrc.gov .

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. § 552a(e)(4), requires federal agencies such as FMSHRC to publish in the Federal Register notice of any new or modified system of records. As detailed below, FMSHRC is revising FMSHRC-06, Official Case Files Filed according to and Retrieved by Name of Individually-Named Miner, to update FMSHRC’s address and listed contact information, to make changes to the categories of records in the system and the routine uses of records maintained in the system, and to update the policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system. The changes to the categories of records in the system more specifically describe the records in the system, while the changes to the routine uses state with greater specificity the routine uses that apply to the system rather than the system’s prior reference to a general statement of routine uses.

The notice for FMSHRC-06, provided below in its entirety, is as follows.

SYSTEM NAME AND NUMBER:

Official Case Files Filed according to and Retrieved by Name of Individually-Named Miner, FMSHRC-06.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Docket Office Supervisory Attorney, Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710.

SYSTEM MANAGER(S):

Docket Office Supervisory Attorney, Federal Mine Safety and Health Review Commission, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710, docket@fmshrc.gov, (202) 434-9950.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 823, 44 U.S.C. 3101 *et seq.*; 29 CFR part 2700.

PURPOSE(S) OF THE SYSTEM:

FMSHRC provides trial and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* (2018) (Mine Act). Official case files store documents used by FMSHRC in its consideration and review of such cases and provide information regarding such cases.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individually-named miners whose names are used for filing and retrieval purposes of the official case file of cases arising under the Mine Act. Official case files are retrieved by reference to docket number, and in some instances, by case name. In the large majority of cases before FMSHRC, case names are derived from the name of a mine operator or a union. In a small percentage of cases, cases are identified by an individual miner's name, such as when a miner brings a discrimination complaint in an individual capacity under 30 U.S.C. 815(c)(3), or when the Secretary of Labor takes an enforcement action against a miner under 30 U.S.C. 820(c) or 820(g). This system of records covers only those case files filed according to and retrieved by an individually-named miner's name.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include notices, orders and decisions issued by FMSHRC, filings by parties and their representatives, related correspondence, hearing transcripts and exhibits, transcripts of oral argument, other case-related recordings, and FMSHRC documents pertaining to appeal of the case before a U.S. Court of Appeals.

RECORD SOURCE CATEGORIES:

The parties, their representatives, FMSHRC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. § 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use,

as defined by 5 U.S.C. § 552a(a)(7), pursuant to 5 U.S.C. § 552a(b)(3) under the circumstances described below:

1. To a party in a case presently or formerly before FMSHRC to which case the record relates, or to the party's representative.
2. Pursuant to 5 U.S.C. § 552(a)(2) and 29 C.F.R. 2701.1, 2701.2, and 2702.7(b), to members of the public who visit FMSHRC's website and gain access to information about a case including decisions, orders, notices, and recordings of oral arguments and decisional meetings created in the case and maintained on the website, unless it is determined that release of the information in the context of a particular case would constitute an unwarranted invasion of personal privacy.
3. To an agency, organization, or individual for audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function when necessary to accomplish an agency function related to the system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FMSHRC officers and employees.
4. To appropriate agencies, entities, and persons when: (a) FMSHRC suspects or has confirmed that there has been a breach of the system of records; (b) FMSHRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMSHRC, the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FMSHRC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
5. To another federal agency or federal entity, when FMSHRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
6. To a Member of Congress or staff on behalf of and at the request of the individual who is the subject of the record.
7. To contractors, experts, consultants, the agents thereof, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for FMSHRC, when necessary to accomplish an agency function related to the system of records.
8. To an appropriate federal, state, tribal, local, or foreign agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties making the disclosure.
9. To the Department of Justice, FMSHRC's outside counsel, other federal agencies engaged in ongoing, pending, or potential litigation when (a) FMSHRC, or (b) any employee of FMSHRC in his or her official capacity, or (c) any employee of FMSHRC in his or her individual capacity where the Department of Justice or FMSHRC has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such

litigation, and FMSHRC determines that the records are both relevant and necessary to the litigation.

10. To the National Archives and Records Administration (NARA) for the purpose of records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906; to the Government Accountability Office for oversight purposes; to the Department of Justice to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); to NARA's Office of Government Information Services (OGIS) for record inspection purposes and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies; or to the Office of Management and Budget to obtain that office's advice regarding obligations under the Privacy Act.

11. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when FMSHRC determines that the records may be relevant and necessary to the proceeding or in an appropriate proceeding before another administrative or adjudicative body when the adjudicator determines the records to be relevant and necessary to the proceeding.

12. To a federal, state, tribal, local, or foreign government agency or entity for the purpose of consulting with that agency or entity: (a) to assist in making a determination regarding remedies for an individual in connection with the operations of a FMSHRC program; (b) for the purpose of verifying the identity of an individual seeking remedies in connection with the operations of a FMSHRC program; or (c) for the information submitted by an individual who has requested such remedies on behalf of another individual.

13. To such recipients and under such circumstances and procedures as are mandated by federal statute.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic records are stored in FMSHRC's electronic case management system. Some parts of the official file that cannot be reduced into an electronic format are marked as part of the official file and are stored in a physical FMSHRC filing system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By case name or docket number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with the records schedule approved by the National Archives and Records Administration, the cut-off date for files is at the close of the case. Files are maintained until 99 years old or when no longer needed for reference, whichever is earlier, but no earlier than 6 years after cut-off.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are safeguarded through use of access codes and information technology security in compliance with the FedRAMP standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services. Contractors and other recipients providing services to FMSHRC shall be required to maintain equivalent safeguards. Physical records are safeguarded in a secured environment. The building where the records are stored has security cameras and security guard service. The records are kept in locked file rooms in limited access areas. Access to the file rooms is limited to those personnel whose official duties require access.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on how such requests should be drafted, refer to FMSHRC's regulations contained in 29 CFR part 2705.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on the specific procedures for contesting the contents of a record, refer to FMSHRC's regulations contained in 29 CFR part 2705.

NOTIFICATION PROCEDURE:

Individuals who wish to inquire about their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on the specific procedures for contesting the contents of a record, refer to FMSHRC's regulations contained in 29 CFR part 2705.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HISTORY:

April 6, 2000, 65 Federal Register 18134.

Dated: May 17, 2022

Sarah L. Stewart,

Deputy General Counsel,

Federal Mine Safety and Health Review Commission.

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